

**McCUSKER, ANSELM, ROSEN
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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

ST JAMES-COLUMBUS MEDREALTY,
LLC, COLUMBUS MEDREALTY, LLC,
and COLUMBUS MEDICAL BUILDING
HOLDINGS, LLC,

Plaintiffs,

v.

SOVEREIGN HEALTH OF CALIFORNIA,
INC., SOVEREIGN HEALTH OF
FLORIDA, LLC, RISHI BARKATAKI, and
TONMOY SHARMA,

Defendants.

CIVIL ACTION NO.: _____

Civil Action

Action Removed: HUD-L-1239-17

NOTICE OF REMOVAL

TO: Chief Judge and Judges of the United States District Court for the District of New Jersey

ON NOTICE TO:

Robert A. Agresta, Esq.
Anthony K. Modafferi, III, Esq.
The Agresta Firm, P.C.
The Benzel-Busch Building
24 Grand Avenue
Englewood, NJ 07631

Brett S. Moore, Esq.
Peter J. Gallagher, Esq.
Porzio, Bromberg & Newman, P.C.
100 Southgate Parkway
Morristown, N.J. 07962-1997

Clerk, United States District Court, District of New Jersey
Newark Vicinage

Martin Luther King Building & U.S. Courthouse
50 Walnut Street, Room 4015
Newark, NJ 07101

Clerk, Superior Court of New Jersey, Law Division
Hudson County Superior Court
257 Cornelison Avenue, Fourth Floor
Jersey City, NJ 07306

HONORABLE JUDGES:

Defendants Sovereign Health of California, Inc., Sovereign Health of Florida, LLC, Rishi Barkataki and Tonmoy Sharma (together, “Defendants”), by their undersigned counsel, hereby remove this action from the Superior Court of New Jersey, Law Division, Hudson County, to the United States District Court, District of New Jersey, pursuant to 28 U.S.C. §§ 1441 and 1446, based on the following grounds:

I. HISTORY OF THE ACTION

1. On or about March 24, 2017, Plaintiffs, Saint James-Columbus Medrealty, LLC, Columbus Medrealty, LLC, and Columbus Medical Building Holdings, LLC (“Plaintiffs”), commenced the instant action against Defendants in the Superior Court of New Jersey, Law Division, Hudson County, docket number HUD-L-1239-17 (the “Action”). A copy of Plaintiffs’ Complaint with Exhibits is attached hereto at Exhibit 1.

2. On or about June 6, 2017, Defendants acknowledged service of the Complaint and deemed service effective as of June 2, 2017. A copy of the Acknowledgement of service is attached hereto as Exhibit 2.

3. On June 8, 2017, Plaintiffs served Document Demands, Interrogatories and Deposition Notices on each of the Defendants.

4. On June 16, 2017, Plaintiffs served Requests for Admissions directed toward each of the Defendants.

5. This Notice of Removal is being filed within thirty (30) days after service of the Complaint with Exhibits, by Defendants and is therefore timely filed pursuant to 28 U.S.C. § 1446(b)(1).

II. ALLEGATIONS OF THE VERIFIED COMPLAINT

6. The crux of Plaintiffs' Complaint is that Defendants allegedly breached a lease agreement related to the real property located at 495 North 13th Street, Newark, New Jersey. Plaintiffs allege four causes of action: (1) breach of contract; (2) breach of implied covenant of good faith and fair dealing; (3) tortious interference with contractual relations; and (4) fraudulent and negligent misrepresentation.

7. Specifically, Plaintiffs allege that Defendants failed to make rent payments when due and owe additional sums related to basic rent, additional rent and rehabilitation of the building on the real property. *See* Complaint, ¶¶ 12-37.

8. Plaintiffs seek money damages from Defendants for rents allegedly due for the balance of the lease term and costs related to rehabilitation of the building. *See* Complaint at Prayer For Relief, ¶¶ a-d.

III. JURISDICTION

9. This Court has jurisdiction over the matter pursuant to 28 U.S.C. § 1332.

10. The amount in controversy in this matter exceeds \$75,000, exclusive of interest and costs.

11. Plaintiffs are a.) Columbus Medical Building Holdings, LLC, a Delaware Limited Liability Company, with its principal place of business in Newark, New Jersey; b.) Columbus MedRealty, LLC., a New Jersey Limited Liability Company; with its principal place of

business in Newark, New Jersey and c.) Saint James-Columbus MedRealty, LLC, a New Jersey Limited Liability Company with its principal place of business in Newark New Jersey.

12. Upon a review of publicly available records, filings and news reports, the members of the Plaintiffs are Richard Lipsky and Frank Lipsky, both of whom, are residents of New Jersey.

13. Defendants are a.) Sovereign Health of California, Inc., a California Corporation; b.) Sovereign Health of Florida, LLC, a Florida Limited Liability Company with its principal place of business in Pompano Beach, Florida, the members of which in California; c.) Rishi Barkataki, a resident of Maryland; and d.) Tonmoy Sharma, a resident of California.

14. Upon information and belief, after review of publicly available records, news reports and court filings in other matters, the Plaintiffs and Defendants are citizens of different states such that no member of Plaintiffs resides in the same state as any Defendant.

15. Accordingly, this Action may be removed by Defendants to the United States District Court for the District of New Jersey.

IV. VENUE

16. Under 28 U.S.C. § 1441(a), the United States District Court for the District of New Jersey, Newark Vicinage, is the proper venue for removal jurisdiction because it embraces the place where the Action is pending.

V. PROCEDURAL COMPLIANCE WITH REMOVAL REQUIREMENTS

17. As stated above, this Notice of Removal is being filed within thirty (30) days after service of the Complaint with Exhibits, by Defendants and is therefore timely filed pursuant to 28 U.S.C. § 1446(b).

18. Also as stated above, a copy of all process, pleadings or orders served upon

or otherwise received by Defendants are attached hereto as Exhibits 1-2.

19. Pursuant to 28 U.S.C. § 1446(b)(2)(A), all Defendants who have been properly joined and served consent to the removal of the Action.

20. A copy of a Civil Cover Sheet, required by Local Rule 5.1, is also being filed herewith.

21. Four (4) copies of this Notice of Removal and a Civil Cover Sheet shall promptly be forwarded to the Clerk of the United States District Court, District of New Jersey, pursuant to Local Rule 5.1.

22. Pursuant to 28 U.S.C. § 1446(d), promptly after the filing of this Notice of Removal, Defendants shall give written notice thereof to all adverse parties and shall file a copy with the Clerk of the Superior Court of New Jersey, Hudson County.

23. Defendants have not previously made an application for the relief sought herein, nor for any similar relief, to this or any other court.

24. By filing this Notice of Removal, Defendants do not waive any defenses, including, but not limited to, those related to jurisdiction, venue and insufficiency of service of process.

WHEREFORE, Defendants Sovereign Health of California, Inc., Sovereign Health of Florida, LLC, Rishi Barkataki and Tonmoy Sharma file this Notice to Remove the Action, now pending in the Superior Court of New Jersey, Law Division, Hudson County, from that Court, and requests that the Action proceed in this Court as an action properly removed to it.

Dated: June 29, 2017

McCUSKER, ANSELM, ROSEN,
& CARVELLI, P.C.

By: s/ Andrew E. Anselmi

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CERTIFICATION PURSUANT TO LOCAL RULE 11.2

I, Andrew E. Anselmi, counsel for Defendants Sovereign Health of California, Inc., Sovereign Health of Florida, LLC, Rishi Barkataki and Tonmoy Sharma, certify that there is a matter pending in the Superior Court of New Jersey, Essex County, Chancery Division (C-44-17-ESX) captioned *Oitzroyce Corp. v. Columbus Medrealty, LLC, and Columbus Medical Building Holdings, LLC (a nominal defendant)* (hereinafter referred to as the “*Oitzroyce Matter*”). Upon information and belief, the *Oitzroyce Matter* relates to the sale of the real property located at 495 North 13th Street, Newark, New Jersey (“495 North Property”). The 495 North Property is also the subject of the within action. The parties in the *Oitzroyce Matter* are: plaintiff Oitzroyce Corp. and defendants Columbus Medrealty, LLC, and Columbus Medical Building Holdings, LLC (a nominal Defendant). Defendants Sovereign Health of California, Inc., Sovereign Health of Florida, LLC, Rishi Barkataki and Tonmoy Sharma, are not parties to the *Oitzroyce Matter*. The parties common to both actions are Columbus Medrealty, LLC and Columbus Medical Building Holdings; Columbus Medrealty, LLC and Columbus Medical Building Holdings are plaintiffs in the within action and a defendants in the *Oitzroyce Matter*.

Dated: June 29, 2017

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